



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,350	11/21/2003	Vance M. Smith	4313-031012	3308
28289	7590	12/05/2005	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			ELOSHWAY, NIKI MARINA	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/719,350

Applicant(s)

SMITH, VANCE M.

Examiner

Niki M. Eloshway

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 20-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/17/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 20-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected methods, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 3, 2005.
2. Applicant's election with traverse of Group I, the article claims, in the reply filed on October 3, 2005 is acknowledged. The traversal is on the ground(s) that "a thorough and complete search of the subject matter set forth in claims 1-19 will likely encompass the subject matter claimed in 32-44" (page 2 of Applicant's response file October 3, 2005). This is not found persuasive because the search required for the method claims is not required for the article claims. There would be a serious burden on the examiner if restriction is not required since Groups I, II and III would be classified separately, and have a different field of search. The article claims would be searched and classified in classes 220/ and 292/ but would not be searched or classified in method classes 413, 29 and 53. Searches in classes 413, 29 and 53 would be mandatory for the method claims.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kane (U.S. 3,907,349) in view of Koziczowski et al. (U.S. 5,411,162). Kane teaches a container assembly having a

Art Unit: 3727

container body 10, a cover 11, a split ring 20 and locking device at 27. Kane also teaches an outer seal at 19 made of polyvinylchloride, however this layer is not a coating. Koziczkowski et al. teaches that it is known to provide a coating on a split ring (see coating 92). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Kane with the outer seal being a coating, as taught by Koziczkowski et al., in order to assemble the container with fewer parts by having the outer seal permanently attached to the split ring.

Regarding claims 6 and 16, Kane also does not disclose the thickness of the polymeric coating. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Kane with the polymeric coating having a thickness between about 15-30 mils, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), and since a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claims 9 and 19, Kane also does not disclose the thickness of the layers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Kane with the base layer having a thickness of up to about 1 mil, and the top layer having a thickness of between about 15 and 25 mils, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), and since a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

5. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koziczkowski et al. (U.S. 5,411,162) in view of Kane (U.S. 3,907,349). Koziczkowski et al. teaches a container assembly

Art Unit: 3727

having a container body 14, a cover 16, a split ring 20 and locking device at 22. Koziczkowski et al. also teaches a coating at 92, however this coating is not polymeric. Kane teaches that it is known to provide a polyvinylchloride layer between a ring and cover. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Koziczkowski et al. with the coating being polyvinylchloride, as taught by Kane, for the resilience and corrosion resistance characteristic of polyvinylchloride.

Regarding claims 6 and 16, Koziczkowski et al. also does not disclose the thickness of the polymeric coating. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Koziczkowski et al. with the polymeric coating having a thickness between about 15-30 mils, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), and since a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claims 7, 8, 17 and 18, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Koziczkowski et al. with the an epoxy layer, as taught by Kane, since epoxy is a well known for it's adhesive properties.

Regarding claims 9 and 19, Koziczkowski et al. also does not disclose the thickness of the layers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Koziczkowski et al. with the base layer having a thickness of up to about 1 mil, and the top layer having a thickness of between about 15 and 25 mils, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456,

Art Unit: 3727

105 USPQ 233, 235 (CCPA 1955), and since a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 11, Koziczowski et al. does not teach a gasket between the cover and container. Kane teaches that it is known to provide a gasket between a cover and container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Koziczowski et al. with a gasket between the cover and container, as taught by Kane, in order to better seal the assembly.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the locking ring and/or coating.

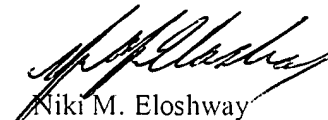
7. THIS ACTION IS NON-FINAL.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Niki M. Eloshway  
Examiner  
Art Unit 3727

nme